

APPEAL NO. 041121  
FILED JUNE 24, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 7, 2004. The hearing officer determined that the respondent's (claimant) \_\_\_\_\_, compensable injury includes the thoracic spine; that the appellant (self-insured) did not waive the right to contest compensability of the claimed injury by not timely contesting it in accordance with Sections 409.021 and 409.022; that the claimant's impairment rating (IR) is 35%; that he had disability beginning July 3, 2001, and continuing; and that he is entitled to lifetime income benefits (LIBs) based on an injury to the spine that resulted in the permanent and complete paralysis of both legs as of September 6, 2002.

The self-insured appeals the LIBs determination, as well as the extent-of-injury determination and its resulting effect on the IR and disability determinations. The claimant urges affirmance of the hearing officer's decision. The waiver determination has not been appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed

Extent of injury was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and it is for the hearing officer to resolve such conflicts and inconsistencies in the evidence as were present in this case (Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer's determination that the claimant's compensable injury includes his thoracic spine is sufficiently supported by the evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). As the self-insured's appeal of the disability and IR determinations was predicated on the extent-of-injury determination, which we have affirmed, we likewise affirm the IR and disability determinations.

Section 408.161(a)(5), relied upon by the claimant for LIBs entitlement, requires that a spinal injury result in complete paralysis of either both legs, both arms, or one arm and one leg. The hearing officer was persuaded by the evidence that the injury to the claimant's thoracic spine has resulted in paraplegia. Nothing in our review of the record indicates that this determination requires reversal. Cain, supra.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CR  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Chris Cowan  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Edward Vilano  
Appeals Judge